

Appl. No. : 10/824,798  
Filed : April 15, 2004

### REMARKS

No amendment is made in this response. Applicant respectfully requests reconsideration of the application in view of the following remarks.

#### Double Patenting

Claims 1-20 and 30-40 are pending and have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-23 and 50 of copending Application No. 10/960,600 in view of Kim (US 6,435,428). The copending Application No. 10/960,600 was filed October 7, 2004 which is later than the filing date of the instant application (April 15, 2004) but the copending Application claims the benefit of Provisional Application No. 60/510,059, filed October 9, 2003 which is earlier than the filing date of the instant application (April 15, 2004). In view of the above, Applicant hereby submits a Terminal Disclaimer to Obviate a Double Patenting Rejection over a Pending "Reference" Application accompanying this response, thereby obviating this rejection. The filing of the terminal disclaimer "simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991).

#### Rejection Under 35 U.S.C. § 103

Claims 1-20 and 30-40 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over US 2005/0208217 A1 (Shinriki) in view of Kim. US 2005/0208217 A1 (Shinriki) is copending Application No. 10/960,600 as discussed above.

The undersigned, an attorney of record, herein states that the instant application and US 2005/0208217 A1 (Shinriki) were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same entity, ASM JAPAN K.K. Thus, under 35 U.S.C. § 103(c), US 2005/0208217 A1 (Shinriki) is disqualified as prior art. Accordingly, as the Office action states, it is respectfully submitted that this rejection is overcome.

### CONCLUSION

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In light of the Applicant's amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: May 21, 2007

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